

APPEAL NO. 022921
FILED DECEMBER 23, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 9, 2002. The hearing officer determined that the appellant's (claimant) injury did not extend to his left shoulder. She further held that the claimant had disability for the period from August 6 through September 28, 2001 (when the claimant was off work for work hardening).

The claimant, appeals arguing that these decisions are against the great weight and preponderance of the evidence. The respondent (carrier) responds that the hearing officer's decisions are supported by the evidence.

DECISION

The hearing officer's decision is affirmed.

The claimant worked several months after his _____, thumb dislocation injury. He contended that he had a shoulder injury as well. The claimant continued to work his normal job until April 20, 2001. There was evidence that he quit work after being sent home following an argument with coworkers.

Essentially, the claimant quarrels with the manner in which the hearing officer gave weight and credibility to the evidence. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). The decision should not be set aside because different inferences and conclusions may be drawn upon review, even when the record contains evidence that would lend itself to different inferences. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). An appeals-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied); American Motorists Insurance Co. v. Volentine, 867 S.W.2d 170 (Tex. App.-Beaumont 1993, no writ). The record in this case presented conflicting evidence for the hearing officer to resolve. She determined, and is supported by the medical evidence, that his injury consisted of a dislocated thumb, with pain that might have radiated as far as the shoulder but did not represent a separate shoulder injury. In considering all the evidence in the record, we cannot agree that the findings of the hearing officer are so against the great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We therefore affirm the decision and order.

The true corporate name of the insurance carrier is **SAFECO INSURANCE COMPANY OF AMERICA** and the name and address of its registered agent for service of process is

**LINDA LEWIS
1600 NORTH COLLINS ROAD #300
RICHARDSON, TEXAS 75080.**

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judges